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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,861	02/08/2005	Stan Nowak	ASEFF.0101	6378

7590  
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06/10/2005

EXAMINER
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BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/511,861

Applicant(s)

NOWAK ET AL.

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/8/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the axle recited in claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

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of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because element 49 points to a hole in figure 5 but is described in paragraph [0026] as a pump and is shown as a pump in figure 6.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: elements 44 and 52 on pg. 6 and element 64 on pg. 7. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

#### ***Claim Objections***

6. Claims 1-4 and 8-14 are objected to because of the following informalities: in the last five lines of claim 1 the phrases "said walls" and "said wall" should be changed to --said one or more walls-- to maintain consistent terminology (a similar issue exists in

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claim 8) and in line 5 from the bottom of claim 8 the phrase "brake ads" should be changed to --brake pads--, and the phrase "with in" in line 2 of claim 11 should be changed to --within--. Appropriate correction is required. The remaining claims are objected to due to their dependency from one of claims 1 and 8.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 5-10, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5445242 to Pogorzelski et al.

Re: claims 1, 2, 5, and 6. Pogorzelski et al. show in figures 1, 2, and 4 a fluid cooled brake housing 34 including at least a casing defining a cavity for housing one or more friction pads 22,26 as shown in figure 1 the casing having one or more walls, at least one of said walls provided with an internal fluid flow path 74, a fluid inlet labeled in figure 2 in fluid communication with the fluid flow path, and a fluid outlet labeled in figure 2 in fluid communication with the fluid flow path.

Re: claims 3, 7, and 13. Pogorzelski et al. show in figure 4 wherein the fluid flow path includes a plurality of parallel connected channels (top and bottom horizontally extending portions 74) extending between the fluid inlet and the fluid outlet.

Re: claims 8 and 12. Pogorzelski et al. show in figures 1, 2, and 4 a fluid cooled brake system including a fluid cool brake housing 34 having a casing defining a cavity, the casing having one or more walls, at least one of the walls provided with an internal fluid 74 flow path, and a fluid inlet and outlet each in fluid communication with the fluid flow path as shown in figure 2, one or more brake pads 22, 26 disposed in the cavity as shown in figure 1, braking surface or the outer surface of 16 located within the cavity as shown in figure 1, an actuator 20 for selectively moving the one or more pads into contact with the braking surface, and a supply 14 of cooling fluid external of the cavity and in fluid communication with the fluid inlet and the fluid outlet, whereby the cooling fluid circulates through the supply, the fluid inlet, fluid flow path and fluid outlet.

Re: claim 9. Pogorzelski et al. show in figure 1 a pump 94 for pumping the cooling fluid through the supply and the fluid flow path.

Re: claim 10. Pogorzelski et al. show in figure 1 further including a heat exchanger 96 in fluid communication with the supply for cooling the cooling fluid.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4, 11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pogorzelski et al. in view of US Patent 5249649 to Emmons.

Re: claims 4 and 14. Pogorzelski et al. lack the limitation of a sealing means for sealing the cavity when the housing is mounted on an axle to provide a wet brake housing.

Emmons teaches in figure 7 the use of a sealing means 65 for sealing the cavity from the volume of fluid to actuate the piston.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the pistons actuating the friction pads of Pogorzelski et al. to have included sealing means, as taught by Emmons, in order to provide a means of helping to separate the actuating fluid used to actuate the pistons to move the friction pads from the rest of the cavity.

Re: claim 11. See the rejection of claims 4 and 14 above and Examiner notes that a volume of fluid shown behind the piston 20 within the cavity and at least partially covering the braking surface (at least that portion of the braking surface in the area extending the width of the volume of fluid behind the piston 20) is shown separate from the cooling fluid.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents: 3915262, 4815573, 3022867, 4508200 teach similar liquid cooled brake systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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June 7, 2005

Melody M. Burch  
6/7/05